

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

PIERCE TELEPHONE COMPANY, INC.)

File No. _____

Petition for Limited Waiver of the)
Federal Communications Commission's Rules)
Concerning Administration of the North)
American Numbering Plan)
Carrier Identification Codes (CICs))

CC Docket 92-237

To: Common Carrier Bureau

PETITION FOR LIMITED WAIVER

Pierce Telephone Company, Inc. ("Pierce" or "Petitioner"), by its attorney, respectfully requests a limited waiver of the January 1, 1998 deadline for the transition to four digit Carrier Identification Codes ("CICs") and any attendant customer education requirements established in the above-captioned proceeding. Petitioner requests additional time to comply with the requirement that a carrier have four digit CIC capability. Petitioner is a small local exchange carrier which provides equal access to its customers. Petitioner does not routinely upgrade switch hardware or reprogram operating systems software. In its rural service area cost considerations are primary, and there is not a strong market for custom calling features. As demonstrated herein, good cause exists for this waiver^{1/} because it is technically and economically infeasible for

^{1/} "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 (continued...)

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Petitioner to comply with the January 1, 1998 deadline for conversion to the four digit CIC capability. Accordingly, Petitioner requests an extension of time to implement four digit CIC capability.

Background and Facts

On April 11, 1997, the Federal Communications Commission adopted its *Second Report and Order, In the Matter of Administration of the North American Numbering Plan Carrier Identification Codes (CICs), Petition for Rulemaking of VarTec Telecom, Inc.* CC Docket No. 92-237, FCC 97-125 released April 11, 1997 ("Second Report & Order"), which set a January 1, 1998 deadline for all carriers to transition to four digit Feature Group D CICs. This Second Report & Order shortened the anticipated deadline from the year 2000 to January 1998.^{2/} In May 1997, soon after the Second Report & Order was released, Petitioner made efforts to assess what steps it needed to take to meet the January 1, 1998 deadline. Petitioner determined that in order for it to be able to have four digit CIC capability, it must upgrade the existing operating systems software on its two Northern Telecom ("Nortel") switches so that the switches can support the four digit CICs. (Pierce's two exchanges are currently operating on release version 404.41 of operating systems software, which does not have four digit CIC capability.)

^{1/}(...continued)

F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC 897 F.2d 1164, 1166 (D.C. Cir. 1990).

^{2/} *Second Report & Order* at para 4. The deadline had previously been extended from 1995 to 2000, so Petitioner had expected a six year transition period.

Since May 1997 Pierce has made good faith efforts to purchase an updated release of the operating system software necessary to have four digit CICs capability. Although Pierce has contacted Nortel in order to confirm the details of purchasing the upgrade, Nortel has not responded to confirm either price or acceptance of the order for the software.

In any event, once ordered, an upgrade may take several months to receive install. Pierce has learned from other sources that Nortel has a long waiting list because the company is overwhelmed with upgrade requests. Petitioner is currently trying to negotiate with Nortel on contract specifics. Once contracts are signed, a normal lead time of 180 days is expected for installation. Based on these assumptions, a mid 1998 implementation is expected.

Request for Waiver

Petitioner requests a limited waiver of the January 1, 1998 deadline to transition to four digit CICs so that it has the time it needs to purchase and install the software upgrade. Pierce did not previously purchase the software, because as the Commission is aware, the required operating system software which supports it is prohibitively expensive for a small and rural LEC such as Petitioner.^{3/} Furthermore, now compliance with the January 1, 1998 deadline for transitioning to four digit CICs is technically infeasible since the software is not currently available.

The Commission has previously recognized the technical and economic burden on small and rural LECs in purchasing software and equipment upgrades. In its December 10, 1995 Caller ID Order, the Commission issued a stay of its per call block and unblocking requirements in response to waiver petitions from several LECs, including small rural LECs, that claimed that

^{3/} Pierce serves about 1,870 access lines.

providing blocking and unblocking was technically and economically infeasible.^{4/} Delaying Petitioner's compliance with the January 1, 1998 CIC compliance deadline will not harm its customers. Rather, the customers will benefit from Pierce's rational conversion to four digit CIC capability at a slower pace, which is technically and economically feasible for the company. Therefore, Petitioner submits that grant of a waiver of the transition deadline in this instance will benefit the public interest.

Conclusion

For the reasons explained, Petitioner requests a limited waiver of the January 1, 1998 deadline for implementation four digit CICs. Petitioner requests that a limited waiver be granted and an extension given until May 1, 1998. The public interest benefit in this case equals or exceeds that which the Commission has found in other instances to be sufficient for waiver. Accordingly, Petitioner requests that a waiver and extension be granted as proposed.

Respectfully submitted,

PIERCE TELEPHONE COMPANY, INC.

By: B. Lynn F. Ratnavale
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^{4/} *Order and Fourth Notice of Proposed Rulemaking*, 10 FCC Rcd 13796, 13808 (1995).

DECLARATION

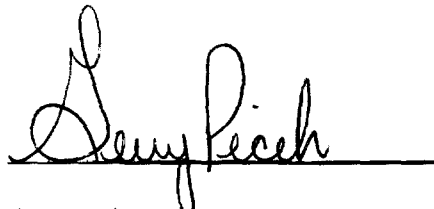
I, Gerry Picck, hereby state and declare:

1. I am General Manager of Pierce Telephone Company, Inc., local exchange carrier in Pierce, Nebraska.

2. I am familiar with the facts contained in the foregoing Petition For Limited Waiver, and I verify that those facts are true and correct to the best of my knowledge and belief, except that I do not and need not attest to those facts which are subject to official notice by the Commission.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 5th day of November, 1997.

A handwritten signature in cursive script, appearing to read "Gerry Picck", written over a horizontal line.

Gerry Picck, General Manager
Pierce Telephone Company, Inc.

CERTIFICATE OF SERVICE

I, Michael D. Hunter, of Lukas, McGowan, Nace & Gutierrez, Chartered, hereby certify that on this 7th day of November, 1997, a copy of the attached "Petition for Limited Waiver" was hand delivered to the parties listed below:



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